IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.3548 OF 2007

Smt.Bharati Bajarimal Badvaria ..Applicant

V/s.

The State of Maharashtra ..Respondent

Mr.O.A.Siddiqui, advocate, for applicant
Ms.S.D.Shinde, Assistant Public Prosecutor, for the State

CORAM : V.C.DAGA, J.

DATE : 31ST OCTOBER, 2007

P.C.

1. Heard learned counsel for the applicant and learned APP. The applicant is seeking bail in connection with C.R.No.I-83 registered with Hill Line Police Station, Ulhasnagar-5 for the offence punishable under Section 302 read with 34 of the Indian Penal Code. The learned counsel for the applicant submits that so far as role of the applicant is concerned, she had only caugthold deceased. She did not assault the deceased. According to F.I.R, a person involved therein had

made assault on the deceased. It is thus submitted that looking to the role of the present applicant she is entitled for bail. The learned counsel for the applicant has placed reliance on the Judgment of the learned Single Judge in the case of **Kashinath Minba Kasve & others Vs. The State of Maharashtra,** reported in **1996 I LJ 86** wherein while considering the bail application for the offence punishable under Section 307 read with 34 of the Indian Penal Code the accused Nos.2 & 3 were granted bail since they had just held the complainant. He has also placed reliance on the Judgment of the Apex Court in the case of **Amrit Singh & anr. Versus State of H.P.,** reported in **2001 (3) Crimes 456(SC)** wherein conviction of accused was altered from Section 307 to 324 on the role attributed to him that he caught hold of the victim. That case was also under Section 307 read with 34 of the Indian Penal Code where in the present case the offence is of Section 302. Even, if, role of the present applicant seen separately

considering gravity of the offence, I am not inclined to entertain this application. Therefore, the application is rejected. Even, she considered to be a woman, she is not entitled to bail under Section 437 of the Criminal Procedure Code.

(**V.C.DAGA, J.**)